

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLYDE RAY SPENCER, MATTHEW  
RAY SPENCER, and KATHRYN E.  
TETZ,

Plaintiffs,

vs.

NO. 3:11-cb-05424-BHS

FORMER PROSECUTING ATTORNEY  
FOR CLARK COUNTY JAMES M.  
PETERS, DETECTIVE SHARON  
KRAUSE, SERGEANT MICHAEL  
DAVIDSON, CLARK COUNTY  
PROSECUTOR'S OFFICE, CLARK  
COUNTY SHERIFF'S OFFICE, THE  
COUNTY OF CLARK and JOHN DOES  
ONE THROUGH TEN,

Defendants.

*Sharon*

DEPOSITION UPON ORAL EXAMINATION OF ~~SHIRLEY~~ KRAUSE

Tuesday, November 6, 2012  
Olympia, Washington

EXHIBIT F

## I N D E X

1		
2	EXAMINATION	PAGE/LINE
3	MS. ZELLNER	7 16
4	MR. FREIMUND	195 1
5	MS. ZELLNER	197 8
6	MR. FREIMUND	201 7
7	MS. ZELLNER	201 13

## I N D E X E X H I B I T

11	EXHIBIT NO.	DESCRIPTION	PAGE/LINE
12	NO. 1	Clark County Sheriff's Index, 8/30/84; 2 pgs.	9 19
13			
14	NO. 2	Clark County Sheriff's Index, 11/8/84; 2 pgs.	14 10
15	NO. 3	R. Stephenson Report of Interview with Ray and Shirley Spencer (Shirley's Handwritten Statement Attached); 9 pgs.	18 16
16			
17			
18	NO. 4	Detective Flood Report Re Interview with Ray, Shirley, Katie, Matt & DeAnne; 10 pgs.	26 3
19			
20	NO. 5	Detective Flood Report - "All Investigation and Medical Findings sent to Clark County"; 1 pg.	32 21
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22	NO. 6	Rebecca Roe Report Re Declination of Case by King County; 3 pgs.	34 4
23	NO. 7	Krause Report Re Receipt of Release Allowing Clark County to Send Information to Anne Link (with release attached); 1 pg.	36 18
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25			

	EXHIBIT NO.	DESCRIPTION	PAGE/LINE	
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3	NO. 8	Krause Report Re Report of Medical	37	10
4		Exam of Katie Spencer; Katie		
5		Spencer's Medical Exam Report;		
6		Matt Hansen's Medical Exam Report;		
7		8 pgs.		
8	NO. 9	Krause Report Re Summary of	38	19
9		Contacts with Ray Spencer; 14 pgs.		
10	NO. 10	Krause Report Re Interview of	62	22
11		Karen Stone; 7 pgs.		
12	NO. 11	Krause Report Re Interview of	69	6
13		Katie Spencer (Interview #1); 15		
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16		Phyllis Day; 3 pgs.		
17	NO. 13	Krause Report Re Interview of	149	3
18		Kathryn Roe; 4 pgs.		
19	NO. 14	Krause Report Re Interview of Matt	135	24
20		Spencer (Interview #1); 11 pgs.		
21	NO. 15	Krause Report Re Interview of	151	11
22		Linda Lawrence; 5 pgs.		
23	NO. 16	Krause Report Re Interview of	151	11
24		DeAnne Spencer; 22 pgs.		
25	NO. 17	Krause Report Re Interview of	142	10
		Katie Spencer (Interview #2); 12		
		pgs.		
	NO. 18	Krause Report Re Interview of	152	4
		Shirley Spencer Re Domestic		
		Disturbance; 8 pgs.		
	NO. 19	Krause Report Re Interview of	7	7
		Shirley Spencer and Matt Hansen		
		(Interview #1); 24 pgs.		

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1 BE IT REMEMBERED that on Tuesday, November 6,  
2 2012, at 9:04 a.m. at 2102 Carriage Drive SW, Building C,  
3 Olympia, Washington, before DIXIE J. CATTELL, Certified  
4 Court Reporter, appeared SHARON KRAUSE, the witness herein;  
5 WHEREUPON, the following proceedings were had,  
6 to wit:

7 (EXHIBIT NOS. 1-44A & B MARKED)

8  
9 SHARON KRAUSE, having been first duly sworn by  
10 the Notary, testified as follows:  
11

12 MS. ZELLNER: Let the record reflect this is the  
13 deposition of Sharon Krause taken pursuant to notice and  
14 continued to today's date by agreement of the parties.

15 EXAMINATION

16 BY MS. ZELLNER:

17 Q Ms. Krause, would you state your full name and spell your  
18 last name.

19 A Sharon Krause, K-R-A-U-S-E.

20 MS. ZELLNER: I would ask today that we put  
21 everyone in the room's name on the record. I can start  
22 with us.

23 I'm Kathleen Zellner. I represent the plaintiff, Ray  
24 Spencer.

25 MR. JOHNSON: My name is Doug Johnson. I

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1 sensitive investigation, and initially I recall that there  
2 was communication between the prosecutor's office,  
3 Sheriff's office, and the city police.

4 And so as it progressed, I know that there were  
5 reports going over to the prosecutor; it wasn't when  
6 everything was done that it went over. During that  
7 investigation, they were getting them.

8 It was my practice, if we ended up going to trial, I  
9 would always sit down with the prosecutor prior to that and  
10 go through everything and make sure they had everything,  
11 but it --

12 Q Okay. So let me see if I understand it. So what you would  
13 do, what your custom and practice was on a case like the  
14 Spencer case, would be to send over the reports as they  
15 were being done. But then, in addition to that, if the  
16 case went to trial, you would sit down and go through the  
17 documents and make sure that the prosecutor had all of the  
18 documents? Is that pretty much what you're saying?

19 A That was my practice. And prior to trial, sit down and go  
20 through everything and make sure that I had what I needed  
21 and the prosecutor had everything I had or, you know, was  
22 in our file.

23 Q And did you ever have the experience with the prosecutor's  
24 office when you would have that meeting and go through and  
25 describe each report, each piece of evidence, where the

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1 between the questions. It's just because of the  
2 communication, I think.

3 Tell me, do you have an independent recollection of  
4 when you were first notified about the Spencer case? Do  
5 you have any time frame?

6 A No independent recollection, no. Only what's in the  
7 report.

8 Q Were you assigned to the Spencer case as an investigator in  
9 1984?

10 A Yes.

11 Q And who assigned you to be the investigator?

12 A It would have been Michael Davidson. He was my supervisor  
13 and the sergeant of our unit.

14 Q What sort of duties did you observe that Michael Davidson  
15 had? You said that he was the supervisor. On a day-to-day  
16 basis what would he do? What did you observe him doing?

17 A My observations were that he assigned cases. We had --

18 Q Okay.

19 A -- homicide investigators, check fraud investigators. That  
20 whole unit, he assigned investigations. He would oversee  
21 what was going on. We --

22 Q Let me stop you there. When you say -- and let's just  
23 confine this to the Spencer case. Was the Spencer case --  
24 and I'm talking just in a general sense. We'll get more to  
25 the specific details in a minute. But what was Mr. -- or

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1 his involvement? We know he reviewed reports. Anything  
2 else?

3 A I indicated before there were times when we discussed it.  
4 I'm sure he made suggestions about things that I should do.  
5 He had input into that. I don't recall -- he wasn't  
6 present during all of the interviews with the children or  
7 witnesses. He was present when -- on occasion when we  
8 spoke with Ray Spencer. He was present when Ray Spencer  
9 was arrested. But, again, we were small and we all were  
10 buried with cases, so he was always willing to help when he  
11 could.

12 Q Okay. You described the Spencer case as being sensitive.  
13 What do you mean by that term?

14 A He was a city police officer, and in all fairness and out  
15 of respect for him, when we got the initial complaint, that  
16 certainly didn't mean that he had done these things. And  
17 it was hard. It was hard on all of us. You know, these  
18 are people that we rely on and depend on on a daily basis  
19 if we need help or if we're in trouble. And so it was  
20 sensitive. It was -- you know, I'm being honest with you  
21 when I say it was difficult for all of us, including  
22 Mr. Spencer, I'm sure, but it was difficult for us.

23 There's a -- you know, we rely on each other. That's  
24 all we have when we get into trouble and we're cops. And  
25 so you have this kinship, and it may not be a situation

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1 Q -- in 1984?

2 A I do.

3 Q All right, let's look at Plaintiff's Exhibit 4, and I'm  
4 going to ask you if you recognize this exhibit. It's got a  
5 number of pages. Do you recognize this exhibit as being  
6 one of the reports prepared by Officer Flood?

7 A I do recognize it.

8 Q Okay. And you had -- this report was sent to your  
9 department and would have been in your file during the  
10 investigation?

11 MR. BOGDANOVICH: Well, Counsel, before we go  
12 any further with questions, could you maybe clarify, if you  
13 can, or ask about the handwriting? I think there are  
14 several pages.

15 MS. ZELLNER: I will, yeah. Let me -- I just  
16 want to get her to confirm that the report would have been  
17 in her files and that she's recognizing it.

18 Q (By Ms. Zellner) Do I have a "yes" to that --

19 A Yes.

20 Q -- question?

21 All right. Then, just to get Counsel's question  
22 resolved, there is handwriting on different pages of this  
23 report, and I'll just ask you, do you recognize the  
24 handwriting on the Flood report?

25 A No, I don't recognize it.

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1 that you know you were aware. What made you -- what's made  
2 you know you were aware?

3 A In reading the reports, there was a conversation with Ray  
4 Spencer and Shirley Spencer, I think, where I told him part  
5 of what was holding us up, we were waiting for those  
6 reports.

7 And when I went to California, I recall that I spoke  
8 to Detective Flood prior to talking to the children, and  
9 I'm sure that I had his report by then.

10 Q Okay. And looking at the section of his report, it's the  
11 last page -- actually, it's four pages from the end. Let  
12 me see if it's Bates stamped. It's when he's actually  
13 talking about his interview. He's talking about Detective  
14 Madrigal and I made contact at the Becerra residence. Do  
15 you see that page?

16 A Yes, I guess this is it.

17 Q 25.

18 A 25?

19 Q Right. Right.

20 Now, Detective Flood describes Kathryn Spencer as  
21 being extremely shy in talking to him; is that correct?

22 A That's correct. When -- well, can I -- he says --

23 Q Yeah.

24 A -- she was extremely shy in talking to me about these  
25 things, but prior to that --

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1 Q (By Ms. Zellner) Do you agree with me that the report says  
2 that -- and I read it to you -- that "She indicated that  
3 her mother did touch her on her potty but only when she was  
4 putting medicine on it," correct? I'm reading it  
5 correctly?

6 A Yes.

7 Q Okay. She's not describing being sexually molested, is  
8 she, in that sentence?

9 A No.

10 Q Okay. "She indicated that she did tell Shirley everything  
11 that Shirley advised me of but when asked to explain it or  
12 asked specific questions about it, she would say that she  
13 couldn't remember the words so she couldn't tell me." Do  
14 you see -- am I reading that correctly?

15 A That's what it states, yes.

16 Q And I'm asking you as an experienced investigator of child  
17 abuse if that sentence has any significance to you in terms  
18 of the child's ability to retell the story?

19 A You know, it doesn't -- it does and it doesn't. First of  
20 all, "She indicated she did tell Shirley everything that  
21 Shirley advised me of." I have no idea specifically what  
22 Flood told her or said to her. Then "When asked to explain  
23 it and asked specific questions about it, she would say she  
24 couldn't remember the words." But it's difficult for me to  
25 make an opinion one way or the other because Flood isn't

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1 specific about what he did say to her or tell her or ask  
2 her.

3 Q Okay. In the last sentence it says, "When asked if someone  
4 had touched her pee-pee, she shook her head yes, and when  
5 asked who, she would say Daddy, and then a few minutes  
6 later she would say, Not Daddy, no one." Am I reading that  
7 correctly?

8 A Yes.

9 Q And then it says, "Kathryn indicated that her father --  
10 that her and her father played a game but she didn't want  
11 to talk about the game," and "When asked if someone had  
12 touched her on her pee-pee, she would say yes, stop and  
13 think for a moment, and then indicate that it was her  
14 mother putting on the medicine." Am I reading that  
15 correctly?

16 A That's what it states, yes.

17 Q And then on the last page, it appears that Officer Flood  
18 "made contact with Matthew, the brother of the victim in  
19 this case, and he indicated he knew nothing about what we  
20 were talking about." Am I reading that correctly?

21 A That's what it states, yes.

22 Q And then Matthew went on, and he denied that his mother or  
23 father had taken any inappropriate actions against him; is  
24 that right?

25 A That's what it states.

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1 Q And Shirley Spencer was very upset and confused about what  
2 was going on, right?

3 A Ray Spencer came in that 9/21 to take the polygraph.

4 Q Right. And Shirley Spencer was with him, correct?

5 A Correct. That's correct.

6 Q And then Mike Davidson was also present, and he talked to  
7 Shirley Spencer, you and Mike Davidson?

8 A Correct.

9 Q Okay. Shirley Spencer was extremely upset and confused  
10 about what was going on, correct?

11 A Based on the report, she was having a real hard time.

12 Q Right. And you even document that she was crying or she  
13 was attempting to hold back tears?

14 A That's correct.

15 Q Is that accurate?

16 A Yes.

17 Q Shirley Spencer makes -- apparently indicates that she  
18 found it was very difficult to believe that there was even  
19 a possibility that her husband Ray would have had any type  
20 of sexual contact with Kathryn. That's correct?

21 A That's what it reflects, the report, yes.

22 Q And Shirley Spencer also indicated that she lived -- during  
23 the time she had lived with Spencer, she never observed  
24 anything that would have concerned her regarding Ray  
25 Spencer having a problem specifically being sexually

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1 attracted to children. That's the information she conveyed  
2 to you?

3 A Yes.

4 Q And she also told you that she had a four-year-old son and  
5 grandchildren, and she would have been concerned about  
6 their safety if she even suspected something like that  
7 would happen, right?

8 A Correct.

9 Q Shirley Spencer said that she wished she had never said  
10 anything, correct, because of all the problems it had  
11 caused?

12 A Yes.

13 Q Shirley Spencer, during that meeting, never indicates to  
14 you that she suspects her husband Ray of abusing Kathryn or  
15 the other children; is that right?

16 A Could you ask me that again?

17 Q Sure. There's no indication in your meeting with Shirley  
18 Spencer on 9/21/84 that she has any doubt about Ray  
19 Spencer's innocence of the allegations?

20 A I think initially in this interview she consistently  
21 expressed her feelings that, you know, she didn't -- well,  
22 let me rephrase.

23 She said she found it hard to believe. She never saw  
24 anything that would have caused her concern. However, she  
25 was the one who called and reported based on Kathryn's

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1 initial disclosure. So I can't say what Shirley Spencer  
2 felt, but, you know, she had concerns and so she acted on  
3 those.

4 Q Right. But you would agree Ray Spencer's actually the one  
5 who had her write up everything that Kathryn had told to  
6 her, correct, that Ray asked her to document?

7 MR. BOGDANOVICH: Object to the form.

8 You can answer.

9 Q (By Ms. Zellner) Is that your understanding, that Ray had  
10 asked her to document the allegations?

11 A What I understand is when I spoke to him, he told me he  
12 told her to write it down. You know, that's the  
13 information I had.

14 Q Well, she actually did write up the allegations, right?

15 A She did, and I had a copy of those.

16 Q Right. And my point is, at this meeting, without trying to  
17 read her mind, she doesn't express any concern that Ray  
18 Spencer had molested her daughter Kathryn? Would you agree  
19 with that?

20 A I guess I don't like the word "concerned." She didn't want  
21 to believe it. I don't think -- you know, she was  
22 reluctant to even entertain the possibility. I can't say  
23 whether she had concerns. I think she had concerns, but --

24 Q Well, she was -- okay. But she wasn't concerned about Ray  
25 Spencer. In that interview on page 7 of 12, she's actually

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1 MR. BOGDANOVICH: Counsel, could we kind of look  
2 for a place to take the break we discussed after the last  
3 interruption and maybe see about getting a backup phone  
4 line set up?

5 MS. ZELLNER: Yeah.

6 MR. BOGDANOVICH: And I think the witness asked  
7 about a break too.

8 MS. ZELLNER: Sure. Why don't we go ahead and  
9 break, and then when we come back, I want to go into  
10 Exhibit 11, which is the interview of Katie Spencer.

11 MR. BOGDANOVICH: Okay.

12 MS. ZELLNER: How long do you want to break?

13 MR. BOGDANOVICH: Well, I don't know. I was  
14 going to ask Ms. Cattell -- do you want to go off the  
15 record so we can talk about the logistics of this?

16 THE COURT REPORTER: Yes.

17 (Recessed at 11:08 a.m.)

18 (Reconvened at 11:25 a.m.)

19 Q (By Ms. Zellner) All right, let's go to Exhibit -- it  
20 would be 11.

21 MR. BOGDANOVICH: Actually, Counsel --

22 Q (By Ms. Zellner) It's a 14-page report, correct?

23 MR. BOGDANOVICH: Counsel, before you go to 11,  
24 I wanted to clarify for 10, there was some underlining and  
25 circles on some of those pages. It goes back to my earlier

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1 questions, if you could maybe ask if --

2 MS. ZELLNER: Sure. Yes.

3 Q (By Ms. Zellner) Ms. Krause, is the writing on Exhibit 10,  
4 is any of that writing yours?

5 A No.

6 Q All right. Now, on Exhibit 11, it's a 14-page document,  
7 can you tell us for the record what it is?

8 A It's a Utility Report that I dictated. It was typed for  
9 me.

10 Q And have you had an opportunity to look at this report  
11 during the break?

12 A Not during this break, but I have looked at it. And  
13 there's also a bunch of writing on this throughout the  
14 report. I recognize none of that. None's mine.

15 Q All right. So none of the writing on the 14 pages is  
16 yours. Attached to, I guess it would be, Bates stamp 71,  
17 after page 14 there's a drawing. Do you see that drawing?

18 A I do.

19 Q And is that a drawing that you used during your interview  
20 of Kathryn Spencer?

21 A It is.

22 Q All right. Now, does this report truly and accurately  
23 reflect your entire interview with Kathryn Spencer on that  
24 date, 10/16/84?

25 A I'm assuming it does, yes. I took notes during the time I

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1 talked to her.

2 Q What did you do with the notes that you took?

3 A You know, at some point in time, notes were destroyed, and  
4 it was because we did not have the capability of storing  
5 all those things. So once it was transcribed, at some  
6 point in time they would be shredded.

7 Q Okay. So I want to ask you now about certain specifics of  
8 your interview with Kathryn Spencer on that date of  
9 10/16/84. Your report indicates on page 2 of 14.  
10 Actually, let's start on page 1, that you took Kathryn  
11 Spencer to a mall to purchase a coat for yourself because  
12 you had not taken one with you; is that correct?

13 A That's correct.

14 Q Okay. Why would you be taking a child witness to a mall to  
15 buy a coat?

16 A I have to back up. Prior -- and I recall this  
17 specifically. Prior to going to Sacramento, I spoke to  
18 Detective Flood, and I asked him if there would be some  
19 place in his department that I could interview her. And he  
20 said, well, if he needed to do that, he probably could.  
21 But I thought -- my impression of that conversation was  
22 that he was -- you know, it wasn't his case, and I  
23 understand that, and everybody's busy.

24 And I learned -- I talked to hundreds of children. I  
25 learned a long time ago that the worst place to interview a

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1 child is at their residence because there's too many  
2 distractions and you end up having to look at everything  
3 they got for Christmas and their birthday.

4 And the other thing I was concerned about was that  
5 there was a divorce. And you know, I didn't know -- I got  
6 a little bit of information from my end, but I didn't know  
7 if there was some really bad blood there, if Mom was  
8 putting the kids up to saying things. I did not want to do  
9 the interview in the house. And I also learned that you  
10 have to establish a rapport with the child.

11 If their father, in fact, at that point had done  
12 these things -- he was a policeman; I was a policeman --  
13 and I don't want children to be threatened by that. So I  
14 elected to take her with me to the hotel and do that  
15 interview where I could control it and it was private. And  
16 it would give me some time to spend with Kathryn and kind  
17 of evaluate where she was as far as her being competent.

18 And I wanted her to be comfortable with me. If these  
19 things were said and they weren't true, I wanted her to  
20 know it was okay for her to tell me they weren't true. If  
21 there was more than what she reported initially, I wanted  
22 her to be comfortable and be able to do that.

23 So I needed a coat, so I thought that would give us  
24 some time alone where I could get acquainted and I could  
25 establish a rapport with her and also kind of evaluate

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1 Was that one your interview techniques?

2 MR. BOGDANOVICH: Object to the form.

3 You can answer.

4 A Could you ask me the question again?

5 Q (By Ms. Zellner) Were you attempting in this -- and I've  
6 just read to you, on page 2 of 14, your conversation with  
7 Katie. Were you trying to see if you could get Katie to  
8 repeat the statements that Shirley had made about  
9 Mr. Spencer?

10 A I believe what I was attempting to do is solicit  
11 independent information from her regarding what did or  
12 didn't occur. Her repeating what she told Shirley Spencer  
13 wasn't going to accomplish anything one way or the other.

14 Q Okay. But that -- I mean, I've read that correctly, right,  
15 that you indicated to Katie that you had come to California  
16 so that I could talk to her? "I indicated to Katie that  
17 when I talked with Shirley in Vancouver, Shirley told me  
18 that Katie had shared some things with her in private, and  
19 that's what I wanted to talk to Katie about." That's what  
20 you announced to Katie, correctly [sic]?

21 A Correct.

22 Q Am I correct? Okay.

23 You have this conversation that starts in the mall  
24 and Katie tells you, "I don't want to talk about that  
25 anymore."

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1 And then you tell her It's important to talk with me,  
2 and I need to talk to her.

3 And Katie said, "You can talk, but I don't want to."

4 So Katie indicated to you at the mall that she did  
5 not want to talk about the subject matter of which she'd  
6 told Shirley, correct?

7 A Correct.

8 Q But despite her making that statement, you go ahead and  
9 interview her anyway, right?

10 A Yes, I did.

11 Q Okay.

12 Do you know what a suggestive question is? Can you  
13 define that for me? In a child interview what's a  
14 suggestive question?

15 A I don't know what your definition of "suggestive" is.

16 Q I'm asking you what yours is. Surely you know that term  
17 from being a child interviewer.

18 A Okay, "suggestive." If -- I think "suggestive" to me would  
19 be indicating facts to the child. An example would be "I  
20 know your daddy touched your privates. Can you tell me  
21 about that?"

22 Q And would you agree with me that a interviewer, even at  
23 this time, in 1984, should not be asking the child  
24 suggestive questions?

25 A Ideally, it would be nice -- it would have been nice to go

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1 into a room with the child and sit down and ask the child  
2 to tell you what happened. But I can assure you that when  
3 you go into the room to interview a little tiny person  
4 about sexual things, the ball sort of stops there, and the  
5 interview is dictated based on what the child does, says,  
6 and I can have all kinds of ideas in my head about what  
7 should happen, but that isn't necessarily going to happen  
8 because every child is different. And so you evaluate that  
9 interview and the techniques based on the child.

10 Q And there are no parameters of what is acceptable in  
11 interviewing a child? It just depends on who the child is  
12 and what you decide to do; is that what you're saying?

13 MR. BOGDANOVICH: Object to the form. Again,  
14 without context as to time.

15 A There are -- I tried so hard not to put words in their  
16 mouth. I interviewed children -- if they weren't sexually  
17 abused, I didn't even want them to know about those things,  
18 but I was on a daily basis, almost every day, talking to  
19 little teeny, tiny people about big people stuff. So  
20 trying to get that information with [sic] them without  
21 leading was real important to me. And I think that makes  
22 it real credible and I've seen reports that were so  
23 suggestive that it took away any credibility there was.  
24 So, you know, I can't tell you -- I just know that each --  
25 each child is different and each child's going to dictate

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1 would be any valid reason to continue the dep, but what it  
2 appears you've done is I had understood we were talking  
3 about Exhibit 11 in that one report, and now it looks like  
4 you're quoting from a report that's actually Exhibit 17,  
5 right?

6 MS. ZELLNER: Right, yeah.

7 MR. BOGDANOVICH: Okay.

8 MS. ZELLNER: Because there are criticisms of  
9 each interview that was done, I want to talk to her about  
10 asking repetitive questions.

11 So if we can go to Exhibit 17, page 126, she asks  
12 Katie Spencer if she could remember anything that her daddy  
13 said when it was happening and Katie stated, "I don't  
14 remember."

15 MR. BOGDANOVICH: And that's an interview on  
16 10/18/84, correct?

17 MS. ZELLNER: Correct.

18 MR. BOGDANOVICH: And I do think it's  
19 important -- all I'd ask is that you give as brief as  
20 possible description about which exhibit and what interview  
21 date you're quoting from.

22 MS. ZELLNER: Right. These are all going to be  
23 from that interview, Exhibit 17.

24 MR. BOGDANOVICH: Oh, okay.

25 MS. ZELLNER: But I'm not asking to confirm she

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1 MR. BOGDANOVICH: And that's on page what, again  
2 so that the witness can follow? This is Exhibit 17. What  
3 page was that quote on?

4 MS. ZELLNER: As I've said three times, it's on  
5 page 126, 127.

6 MR. BOGDANOVICH: Can you direct her on the page  
7 so that she can follow?

8 Q (By Ms. Zellner) Do you find the entry on the page?

9 MS. ZELLNER: I'm not going to sit here and  
10 direct her.

11 Q (By Ms. Zellner) Let me ask you, is Exhibit 17 a true and  
12 accurate report of your interview with Katie Spencer?

13 A It should be, yes.

14 Q Okay. So assume for the purposes of my question that you  
15 asked her, "I asked Katie if she could remember anything  
16 her daddy said when that was happening," and Katie stated,  
17 "I don't remember." Assume that's correct, okay?

18 A Okay.

19 Q Okay. You then asked Katie -- assume this is correct. "I  
20 asked Katie if she could remember if her daddy had said  
21 anything when that happened, advising her it was really  
22 important to remember what he may have said," and Katie  
23 said, "He just doesn't say nothing to me." Okay, that's  
24 the second response -- all right? -- assuming that's  
25 correct?

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1 A Okay.

2 Q All right. Then there's a third question. You state,  
3 "Does he say he likes you? At that point Katie gave in to  
4 the suggestion and replied, "He says he loves me." So you  
5 asked her the first two questions, and then you finally get  
6 her to say, "He says he loves me," correct?

7 MR. BOGDANOVICH: I'm going to object to the  
8 form of the question. I think it's misleading and  
9 incomplete and unfair to refuse to direct the witness to  
10 the portion of the interview where these quotes appear and  
11 then ask her to justify why she repeated the questions.

12 MS. ZELLNER: My question initially was: Does  
13 she think that repetitive questions are proper, and she  
14 stated, "It depends."

15 MR. BOGDANOVICH: Correct.

16 MS. ZELLNER: So I'll leave her answer like  
17 that, and my expert will just simply cite back to this  
18 report.

19 Q (By Ms. Zellner) So let's go back to Exhibit 11, to your  
20 interview. Is that -- is this -- is this report in  
21 Exhibit 11 a complete and accurate copy of your entire  
22 interview with Katie Spencer?

23 A On that date it should be, with the exception of the  
24 writing we already discussed.

25 Q Okay. When you take Katie to the mall, you apparently sit

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1 down and you have food with her, right, or a drink? You  
2 have a soft drink --

3 A I believe so.

4 Q -- buy her a drink?

5 A I believe that's correct.

6 Q Okay. And do you think that that's proper interviewing  
7 technique, to purchase anything for a child of this age  
8 before you start interviewing them?

9 A I don't think it's improper. If she weren't a victim, my  
10 giving her a pop isn't going to cause her to say her father  
11 put his penis in her.

12 Q And what is that based on? Do you have literature that's  
13 based on?

14 A What I'm saying is I don't think the Coke or buying her  
15 something is going to cause her to fabricate sexual  
16 involvement with her father, or any child.

17 Q That's your opinion, correct?

18 A That's my opinion, right.

19 Q Is it based on any literature?

20 A It's based on the hundreds of children that I dealt with.

21 Q Okay. So that's based on your personal experience, that it  
22 doesn't affect them if you buy things for them before the  
23 interview?

24 MR. BOGDANOVICH: Object to the form.

25 Go ahead.

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1 A There's a difference between "buy things." I don't know  
2 what you mean about "things." But a Coke, it. . . I don't  
3 think buying her a Coke or buying any child or getting  
4 something to drink is going to cause them to fabricate  
5 details of molestation.

6 Q Okay. And then when you returned to the hotel on page 3 of  
7 14, Exhibit 11, at the hotel, you again -- she expresses a  
8 desire for a cup of hot chocolate, and then you buy her a  
9 cup of hot chocolate, correct?

10 A I believe that's correct, yes.

11 Q And when you get to your room, she turns on the TV and  
12 removes her shoes?

13 A I believe that's in the report, correct.

14 Q Okay. And then you're taking notes the entire time; is  
15 that right?

16 A I was taking notes from the time I started talking with  
17 her.

18 Q Page 3 of 14, the last full paragraph, she states to you,  
19 "I don't want to talk about my dad, I don't want to talk  
20 about my stepmother," correct?

21 A Correct.

22 Q And you said to her, "I indicated to Katie again that it  
23 was very important that I talk with her because of things  
24 Shirley had said to me." Right?

25 A Correct.

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1 Q And you say that Katie stated, "I like my stepmother.  
2 She's a really nice person."

3 A Correct.

4 Q All right. Now, you're aware that shortly after this,  
5 around December 11, there was a videotaped interview of  
6 Katie Spencer made?

7 A Yes.

8 Q And you were at the interview; is that right?

9 MS. FETTERLY: Object to the form.

10 A I was --

11 Q (By Ms. Zellner) Is that --

12 A I was in there for --

13 THE WITNESS: It's okay if I --

14 MS. FETTERLY: Go ahead.

15 A I was just in there for a few minutes, so I wasn't there.

16 Q But you knew that a videotaped interview was made of Katie  
17 Spencer on December 11, 1984?

18 A Yes, I did.

19 Q And you were present at the interview, correct?

20 MS. FETTERLY: Object to the form.

21 A I was present only during maybe five minutes initially, and  
22 I left the room.

23 Q (By Ms. Zellner) Who was present at that interview?

24 A I didn't even remember the interview. Jim Peters from the  
25 prosecutor's office; Katie Spencer; her mother -- Kathryn

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1 Spencer; her mother, DeAnne Spencer. There was also  
2 someone operating a camera.

3 Q Was his first name Jim?

4 A I have no idea.

5 Q Did he work for the Sheriff's Department?

6 A You know, I don't remember who it was. I don't have any  
7 information that would indicate to me who it was.

8 Q And have you read a transcript of that interview of Katie  
9 Spencer?

10 A Jim with -- during that tape? I've read through it. I  
11 didn't read it word for word the whole thing.

12 Q So you remember in that interview that --

13 MS. FETTERLY: I just wanted -- wait a minute.  
14 Ms. Zellner -- wait a minute, Ms. Zellner. I just want to  
15 pose an objection or a clarification. Are you referring to  
16 the transcript your office prepared?

17 MS. ZELLNER: Yes, I am.

18 MS. FETTERLY: Okay. Because I want to pose an  
19 objection --

20 MS. ZELLNER: She said she read through it.

21 MS. FETTERLY: Okay. But I just want to impose  
22 a continuing objection here that that necessarily  
23 accurately reflects that interview, but with that --

24 MS. ZELLNER: That's fine.

25 Q (By Ms. Zellner) Have you ever listened to or watched the

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1 videotape?

2 MS. FETTERLY: Yes, I have, and I note  
3 particularly in the transcript you prepared there's no  
4 indication --

5 MS. ZELLNER: I'm not talking about the  
6 transcript. I'm asking her if she has listened to the  
7 tape.

8 MS. FETTERLY: Okay. Are you asking -- I just  
9 wanted to pose a continuing objection -- I know you're  
10 going to reference a transcript -- a continuing objection  
11 to reference to that transcript as being an accurate  
12 representation of the interview.

13 MS. ZELLNER: I got it. That's fine.

14 MS. FETTERLY: With that, you may question her  
15 about that.

16 Q (By Ms. Zellner) Have you ever listened to the videotape?  
17 Have you watched it without a transcript?

18 A One time.

19 Q When?

20 A It was minutes after I found it in my garage.

21 Q When you listened to the videotape, do you recall that  
22 Katie Spencer said that she hated her stepmother and  
23 thought she was dumb?

24 A I do. I want to clarify something. That videotape I  
25 watched once, and then I sent it on to the prosecutor's.

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1 Since that time, I got a CD disc. I watched that CD one  
2 time, but that was more when I was -- actually, when I was  
3 doing the interrogatories. Prior to that, I had looked at  
4 it.

5 Q Okay, let's talk about -- we'll come back to this interview  
6 with Katie. Let's talk about that videotaped interview.  
7 How did you happen to be present on that date for a few  
8 minutes of that interview? How did you come to be there?

9 A I -- when I viewed the tape the first time, I didn't  
10 remember the tape. I don't remember the interview. I  
11 don't remember or didn't remember why it was done. And  
12 when I saw -- when I was going through the boxes and I saw  
13 her name on it, I had no memory whatsoever about that tape  
14 or why I was --

15 Q If you could answer my question.

16 A I don't know.

17 Q If you -- you watched the tape and you were there for a few  
18 minutes, right?

19 A Yes.

20 Q Okay. My question to you isn't about you discovering it in  
21 your garage. My question is: How did you come to be  
22 invited to that interview on December 11, 1984?

23 A I don't know.

24 Q You have no idea why you were there?

25 A I have no memory of that interview whatsoever

1 independently.

2 Q Okay. But you are aware that an interview took place,  
3 correct?

4 A I am, based on what I saw on the tape, yes.

5 Q Okay. And Mr. Peters conducted the interview; is that  
6 right?

7 A Based on what's on the tape, I would say that's correct.

8 Q And Katie Spencer at some point early in the interview  
9 indicated that she wanted you to not be present for the  
10 interview?

11 A No, that's not exactly correct. After watching -- when I  
12 watched that, those two times I told you about, I think  
13 it's -- it appears to me she's real concerned about who's  
14 running the camera, and Katie had -- or Kathryn had told me  
15 she didn't like to talk to men about this. And I just felt  
16 it wasn't -- I have some feelings about what that  
17 interview -- why it was done, what it was for. But I don't  
18 believe it was an investigative interview. Had it been, I  
19 would not have left the room, and I would have entered that  
20 tape into evidence. And Katie -- I just felt like with Jim  
21 Peters, her mother and the camera man, it may be better for  
22 me to leave. It was a time when Jim Peters could get to  
23 know her and establish rapport. There wasn't any reason  
24 for me to be there.

25 I suggested to her, I said, "Would you like me to

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1 leave?

2 And she said, "Yes." But she didn't ask me prior to  
3 that to leave the room.

4 Q So you remember that she made that request of you to leave  
5 the room?

6 A No.

7 MR. BOGDANOVICH: Object to the form. It's been  
8 asked and answered.

9 Q (By Ms. Zellner) Could you clarify your answer, please?

10 MR. BOGDANOVICH: Object. It's been asked and  
11 answered, clearly.

12 Go ahead.

13 A What I -- what I was trying to say is I suggested I leave  
14 the room. It wasn't her suggestion. And I asked her if  
15 she would feel better if I left the room and I don't even  
16 remember now if I said something to her about not so many  
17 people. But she said yes and I left the room. There was  
18 no reason for me to stay there.

19 Q Why was the interview conducted?

20 A I think I know why it was conducted, but I told you I have  
21 no independent memory of that interview whatsoever, but I  
22 don't believe, based on what I saw, it was an investigative  
23 interview.

24 Q It really doesn't matter your opinion -- I didn't ask you  
25 that. I'm trying to establish -- you've just told me that

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1 you have a recollection of leaving the room, and you've  
2 also told me you have no memory of the interview, the  
3 purpose of it. So I'm asking you: Do you have any  
4 recollection, after having watched the tape twice, as to  
5 why the interview was done?

6 MR. BOGDANOVICH: I'm going to object to the  
7 form of the question. I think it's argumentative,  
8 misstates prior testimony, and it's been asked and  
9 answered.

10 Go ahead.

11 A I have no independent recollection about that interview,  
12 about who was present, when it was done or the reason. The  
13 only information I have is what I viewed on those two times  
14 I told you about, and based on what I saw, I formed an  
15 opinion.

16 Q (By Ms. Zellner) Okay. And what was that opinion that you  
17 formed watching the tape twice?

18 A The opinion reference why it was done?

19 Q I'm just asking you. You're the one who said you formed an  
20 opinion. What was it?

21 A Okay. My opinion is that it was not an investigative  
22 interview, and had it been, I would not have left the room.  
23 Had it been, I would have marked that tape for  
24 identification and placed it into evidence. And I believe  
25 it was an interview done for the sole purpose of Mr. Peters

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1 getting acquainted with Kathryn in the event we went to  
2 trial and also for him to establish her credibility.  
3 That's my opinion.

4 Q And do you believe, in watching the tape twice, that  
5 Kathryn Spencer's competency was established in that  
6 interview?

7 A I watched -- okay, let me think. Do I believe her  
8 competency. . . ? To some degree in the second portion. I  
9 think the first part of the interview she was real  
10 reluctant to talk to him. During the second part she  
11 opened up and was talking to him. So I think there was  
12 some competency established.

13 Q When you left the room, where did you go?

14 A We had little work cubicles, and that's where I was, in my  
15 work space.

16 Q Could you view the interview from a different place? Was  
17 there a way to view the room?

18 A No. It looked --

19 Q And then --

20 MR. BOGDANOVICH: I'm sorry. Was there more you  
21 wanted to say?

22 THE WITNESS: Yeah.

23 A You know, I don't remember even where it was done.  
24 However, based on what I saw on that tape, I think it was  
25 in a little conference room off the Detective Unit, so

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1 there would be no way to view it.

2 Q (By Ms. Zellner) Okay. So the Sheriff's Department then  
3 did have the ability to videotape interviews, is that  
4 correct, at that time?

5 A Not really. I wouldn't say that was correct. We used  
6 video cameras at crime scenes occasionally or homicides,  
7 but we really weren't set up to actually do an interview.

8 Q Well, one was done though, right, with a videotape?

9 A Obviously that one was, yes.

10 Q Right. So that occurred -- when the break was taken for an  
11 hour and five minutes, did you have any contact with anyone  
12 who was in that room during the interview?

13 A I don't recall.

14 Q Well, when you say you don't recall, might you have had  
15 contact and you just don't remember it?

16 A I don't remember anything about that, the circumstances of  
17 that interview, so I can't say. I really do not remember.

18 Q So you don't know where you went -- or you said you went to  
19 a cubicle; you do remember that?

20 A I don't remember that. That's what I said to her on the  
21 tape. I'm going to go over to my office or work space or  
22 something similar. That's the only reason I said that. I  
23 don't remember. I don't remember the interview, I don't  
24 remember the day, and I don't remember where I went. I  
25 remember -- I only am basing that on what I saw in the

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1 tape.

2 Q Okay. And prior to that interview, during the course of  
3 the investigation up to December 11, 1984, did you have  
4 conversations with Jim Peters about the case?

5 A Oh, I'm certain I did.

6 Q And did you have more than two conversations with Jim  
7 Peters from the beginning of this case in the summer of '84  
8 up until December 11, 1984?

9 A I'm sure I would have, yes.

10 Q Did you have more than a half a dozen conversations with  
11 Mr. Peters?

12 A Unless it's documented in a report specifically, I would  
13 have no way of telling you how many times I met with him.

14 Q Oh, you met with him too. How many times did you meet with  
15 him, would you estimate, between the beginning of the case  
16 up to this interview of December 11?

17 A I don't have any idea unless it's documented in a report,  
18 or the same with the phone conversation, unless it's  
19 documented in a report, whether I met with him, with Art  
20 Curtis or both of them, I would have no way of knowing  
21 that. I don't remember.

22 Q Okay. You are obviously present for some of that  
23 interview. Do you have any recollection of why you were  
24 present at the interview? You may not know why he was. Do  
25 you know why you were there?

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1 A No, I don't. And that's honest. I don't remember that  
2 interview. I don't remember getting ready for that or  
3 where it was done. I'm not even sure it was the Sheriff's  
4 office camera. I do not remember it.

5 Q Okay. Now, this interview we're talking about in  
6 Exhibit 11, the one that we have your notes on, do you have  
7 an independent recollection of that interview?

8 A With Kathryn at the hotel?

9 Q Yeah.

10 A Some events I did.

11 Q Okay. Well, let's go back to the videotape. You said  
12 something about your garage? Tell me about the videotape  
13 in your garage. Was it in your garage? I don't know.

14 A It was in my garage.

15 Q And when did you discover it? What year was it?

16 A It should be reflected on my letter to Denny Hunter, with  
17 the prosecutor's office, because the minute I found the  
18 tape, I took it in, viewed it, and I immediately called  
19 Dennis Hunter, and I sent it off to the prosecutor that  
20 very same day.

21 Q Do you think that that was possibly in 2009 when you  
22 discovered it in your garage?

23 A I'd have to look for sure, but I think it was. Whenever it  
24 was I sent it up there.

25 Q And what were you doing in your garage that led you to

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1 discover the videotape?

2 A I was going to clean or go through the boxes, because that  
3 wasn't the only box. I had a bunch of boxes I needed to go  
4 in there and clean them out.

5 Q Okay. And were those boxes, the other boxes, did they  
6 contain information from other cases that you'd worked on  
7 at the Sheriff's Department?

8 A No. I saw nothing from other cases.

9 Q Okay. Did -- was the videotape the only thing that was in  
10 those boxes that was potentially evidence in a case?

11 MR. BOGDANOVICH: Object to the form of the  
12 question.

13 But go ahead.

14 A I don't believe that videotape was evidence, or it wouldn't  
15 have been in that box.

16 Q (By Ms. Zellner) What else was in the box?

17 A All of the training materials that we provided you with. I  
18 was surprised I had -- I was pretty sure I had my training  
19 notebook, but the seminars and the things that I presented  
20 at, certificates that I got from work, there was a  
21 Spellcheck, some cards, business cards, from the Sheriff's  
22 office. I had some little badges that I used to give  
23 children occasionally. I had a couple of those in there.  
24 Some extra handouts from training were in those boxes.

25 Q Was there any identifying -- was the videotape labeled in

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1 any way?

2 A It was.

3 Q What did it -- how was it labeled?

4 A I don't recall specific -- it either said Interview with  
5 Kathryn Spencer or Kathryn Spencer Interview, and that's  
6 what caught my attention, when I saw the little label on  
7 the outside of it.

8 Q Did it have a case number on it?

9 A You know, I don't remember. I don't remember it had a case  
10 number or -- I didn't remember there being a date, but it  
11 could have been.

12 Q Was it a VHS tape?

13 A Yes.

14 Q It was?

15 A Yeah.

16 Q Did you say "yes"?

17 A Yes.

18 Q Where is that tape now?

19 A I have no idea. I told you already the minute I viewed it,  
20 saw what it was, I called the prosecutor's office, spoke to  
21 Denny Hunter, packaged it up, went to the post office and  
22 shipped it off to him that day.

23 Q Okay. So who is Denny Hunter?

24 A I think at the time, Dennis Hunter worked for the  
25 prosecutor's office, and I think at the time he was the

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1 chief criminal deputy.

2 Q So you took the tape, you went inside, you sat down, you  
3 watched it, correct?

4 A Yes. Immediately after I found it.

5 Q Okay. Then why did you call Denny Hunter?

6 A Well, it's kind of ironic that I ran across that tape after  
7 there were some issues about Ray Spencer again. And when I  
8 viewed it, she clearly on the second portion was acting out  
9 with the dolls, and not only that, I couldn't remember  
10 where that tape came from when it was done, and I thought  
11 somebody needed to have it. They needed to have that tape.

12 Q And why did you think -- I'm just trying to get into the  
13 details of this. Why did you think they needed to have the  
14 tape? Why did you think it was significant? Specifically  
15 why did you think it was?

16 A Because at the time I couldn't even remember when it was  
17 made or why it was made and if it had any significance. I  
18 couldn't imagine why it was in my stuff in my garage. So  
19 I -- that's why I called.

20 Q And when you spoke to Dennis Hunter, what did you tell him?

21 A I told him the circumstances of finding it and --

22 Q Tell me specifically what you told him. Give me the  
23 general idea of what you said. Did you say "I was cleaning  
24 out my garage" and -- I mean, how did you explain it?

25 A I don't remember exactly what I told him. I think -- as I

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1 explained in the letter to him, I let him know I was out  
2 there cleaning. I ran across this tape. I saw the label  
3 on it that I told you about. I immediately went in and  
4 viewed it; couldn't remember when it was done, why it was  
5 done, and because it was -- this other stuff with Spencer  
6 had -- you know, I knew that there were some things going  
7 on. I thought they needed to have it. I didn't know why I  
8 had it when I --

9 Q What did you know was going on at that point in time?

10 A Well, I think that was in -- at the time I found it, I knew  
11 that he had some, you know, there was some court action  
12 involving him, that he had filed, and I think at that time  
13 it was -- there'd been all kinds of articles in the paper.  
14 I don't remember if that was prior to 20/20 calling me all  
15 the time or Oprah Winfrey calling me all the time, her  
16 program, but there was some activity, so I was aware  
17 that -- and, like I said, it was ironic that I ran across  
18 it at that time. I didn't know why I had it or what it  
19 was.

20 Q So when you talked to -- after you watched it and you  
21 talked to Mr. Hunter, then you packaged it up and sent it  
22 to him or you took it to him, or how did you transmit it?

23 A Denny Hunter was in Vancouver, Washington. I live in  
24 Arizona.

25 Q Okay.

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1 A So I found it in my garage in Arizona. I viewed it. As  
2 soon as I saw what it was or knew what it was, I called the  
3 prosecutor's office. I spoke to Dennis Hunter, and based  
4 on his instructions, I wrapped it up and took it directly  
5 to the post office and mailed it out that very same day I  
6 found it.

7 Q Okay. So you mailed it to Mr. Hunter, and then when do you  
8 next hear about the videotape? Does anyone call and  
9 interview you?

10 A I don't remember.

11 Q Did you talk to Mr. Peters about finding the tape?

12 A At some point in time I talked to him about that, but I  
13 don't remember when that was.

14 Q Was it within a year of finding it or was it fairly soon  
15 thereafter?

16 A I don't remember when it was I talked to him, but I do  
17 recall that there was some conversation about that tape.

18 Q And what did Mr. Peters tell you about the tape? Because  
19 he remembered it, right?

20 MS. FETTERLY: Object to form.

21 You can answer if you know.

22 A I don't know. I don't remember specifically what he said.  
23 I. . . I don't remember --

24 Q (By Ms. Zellner) But he knew that the interview had taken  
25 place, didn't he --